

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	CRIMINAL NO. 1:08CR186
v.	)	
	)	Hon. Claude M. Hilton
JACOB SCOTT STAHLER,	)	
	)	<u>Sentencing Date:</u> August 22, 2008
Defendant.	)	

GOVERNMENT'S MEMORANDUM IN SUPPORT OF MOTION FOR DOWNWARD  
DEPARTURE BASED ON DEFENDANT'S SUBSTANTIAL ASSISTANCE TO  
AUTHORITIES IN THE INVESTIGATION AND PROSECUTION OF OTHERS UNDER  
SECTION 5K1.1, UNITED STATES SENTENCING GUIDELINES

I. Introduction

On May 19, 2008, Jacob Stahler pleaded guilty to a single Count criminal information in 1:08CR186 charging him with conspiracy to commit copyright infringement, in violation of Title 18, United States Code, Section 371. Soon after defense counsel was appointed, the defendant began to cooperate with the Federal Bureau of Investigation ("FBI") and the United States Attorney's Office. On June 24, 2004, the defendant provided a full and complete debrief to the FBI regarding his involvement in Internet piracy. From early 2006 until this year, the defendant acted as an active cooperator in the Internet piracy scene and has provided extremely valuable substantial assistance in the investigation and prosecution of others, all involving the Internet piracy of copyrighted works. In addition, the defendant testified truthfully at the trial of one of his co-conspirators, who was subsequently convicted by a jury in this District. It is due to the quality and duration of the defendant's assistance to the Government that the United States files a motion for a downward departure pursuant to Section 5K1.1 of the United States Sentencing

Guidelines (Substantial Assistance to Authorities) and 18 U.S.C. § 3553(e). The details and value of this cooperation is set forth below. The defendant will appear before the Court for sentencing on August, 22, 2008 at 9:00AM.

## II. Cooperation

After the defendant proffered to the FBI in June 2004, the FBI and U.S. Attorney's Office set out to evaluate the information he provided and his potential as a cooperator. Mr. Stahler's proffer provided the government with information about roles and members of the pre-release music piracy group aPC ("Apocalypse Crew"). For the most part, the defendant confirmed information that had already been acquired in the FBI's investigation of aPC, and the defendant's confirmation allowed the government to address the potential defenses of some of the aPC targets that it was then pursuing. This significantly aided the government in procuring guilty pleas from these individuals.

The value and trustworthiness of the defendant encouraged the FBI to consider using him as an active cooperator to target other Internet piracy groups. The key to the defendant's ability to actively cooperate was two-fold: first, he had been an active member of the piracy scene for some time; and, second, he had a plausible story that would allow him to reenter the scene, despite the world-wide execution of search warrants of dozens of Internet pirates from April through September of 2004 as part of Operation Fastlink (in fact, he was on-line and searched as part of that operation). Because he had many connections in the piracy scene and was still able to interact with them, the FBI determined that it was plausible that he could return to the piracy community without significant suspicion.

In early 2006, the defendant began going online, almost daily, in cooperation with the FBI in order to locate substantial evidence of Internet music piracy. Using his connections, he was

able to locate leading members of the scene and gain their confidence, while the FBI was able to monitor his progress and follow the leads he was generating. These efforts aided the FBI's overall investigation into the music piracy scene on the Internet.

In addition, Mr. Stahler prepared with the trial team in U.S. v. Barry Gitarts (1:07cr464) (J. O'Grady) on a number of occasions by phone and in person. He then was the lead witness at the jury trial. In his testimony, Mr. Stahler laid out the operations of aPC, described the relevant roles within the group, identified the persons who he knew in the group, talked about the illegal intent shared by members of the group, and noted that he had seen a screenname identified with Mr. Gitarts in a piracy chat room. His testimony was clear and persuasive. Mr. Gitarts was convicted after less than two hours of jury deliberations. The government believes that Mr. Stahler's testimony was extremely helpful in establishing the existence of a conspiracy, motive, intent, and identification of that defendant.

### III. Recommendation

Jacob Stahler deserves substantial credit for his active cooperation since early 2006 and his historical cooperation since June 2004. His cooperation, in part, provided some stimulus for a number of his co-conspirators to plead guilty, his active cooperation against additional Internet piracy groups aided a number of FBI investigations, and his trial testimony played a significant role in convicting Barry Gitarts.

For these reasons, the defendant deserves a reduction of sentence. The Substantial Assistance Committee of the United States Attorney's Office carefully evaluated all of the details of the defendant's cooperation. The Committee has approved a non-binding recommendation of a **50 % reduction** pursuant to Section 5k1.1 of the Sentencing Guidelines. Furthermore, the government acknowledges that defense counsel is free to argue for an even larger downward

departure, and this Court, obviously, may grant whatever downward departure it feels is appropriate for the defendant's assistance in the investigation and prosecution of others.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of August, 2008, I will electronically file the foregoing with the Clerk of Court using the CM/ECF, which will then send a notification of such filing (NEF) to the following:

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